

**TENTATIVE AGENDA AND MINI BOOK
STATE WATER CONTROL BOARD MEETING
TUESDAY, MARCH 25, 2003
HOUSE ROOM C, GENERAL ASSEMBLY BUILDING
9TH & BROAD STREETS
RICHMOND, VIRGINIA**

Convene - 9:00 A.M.

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ADJOURN

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions arising as to the latest status of the agenda should be directed to Cindy M. Berndt at (804) 698-4378.

PUBLIC COMMENTS AT STATE WATER CONTROL BOARD MEETINGS: The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for their consideration. In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

1. REGULATORY ACTIONS (adoption, amendment or repeal of regulations): For regulatory actions, public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period and one public meeting) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period and one public hearing). Notice of these comment periods is announced in the Virginia Register and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

Comments on the regulatory action are not allowed at a Board meeting while a regulatory action is being processed in accordance with the Administrative Process Act. In rare instances the Board may (at a Board meeting) vote to reopen the public comment file on the regulatory action. If this happens, individuals may address the Board for up to 2 minutes on material previously submitted to the Board. Should the Board decide to accept new information on a regulatory action, an additional public comment period will be announced by the Department in order for all interested persons to have an opportunity to participate.

2. CASE DECISIONS (issuance and amendment of permits and consent special orders): The Board also makes case decisions. For case decisions, the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. If a public hearing is held, there is a 45-day comment period and one public hearing. If a

public hearing is held, a summary of the public comments received is provided to the Board for their consideration when making the final case decision. Public comment is accepted on consent special orders for 30 days.

Comments on pending case decisions at Board meetings are only accepted when the Board is considering final action on the case decision. At that time the Board will allow up to 15 minutes for the applicant/owner to make his complete presentation on the pending decision. The Board will then, in accordance with 9-6.14:11 C, allow others who participated in the prior proceeding (i.e., those who attended the public hearing or commented during the public comment period) up to 2 minutes to exercise their right to respond to the summary of the prior proceeding presented to the Board. The Board will not accept new information at the meeting. Should the Board decide to accept new information, a public comment period will be announced by the Department in order for all interested persons to have an opportunity to participate.

No public comment is allowed on case decisions when a formal hearing is being held.

3. PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than pending regulatory actions or pending case decisions. Anyone wishing to speak to the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentation to not exceed 2 minutes.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Additional Information: For additional information or questions on the adopted public participation procedures for regulatory actions and pending case decisions, contact Cindy M. Berndt at (804) 698-4378.

Permit Terminations: Hanover County Public School - Patrick Henry High (PRO); Chesterfield County Public Schools - Thomas Dale West (PRO); Crown Central Petroleum Corp. (PRO); Synagro Mid-Atlantic, Inc. (PRO); Dept. of Conservation & Recreation Parks Div. (SCRO)

Report on Facilities in Significant Noncompliance: Four major facilities were reported to EPA on the Quarterly Noncompliance Report (QNCR) as being in significant noncompliance (SNC) for the quarter ending December 2002. The facilities and their reported instances of noncompliance are as follows:

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|----|----------------------------|--|
| 1. | Permittee: | City of Alexandria, Alexandria Sewage Treatment Plant |
| | Type of Noncompliance: | Failure to Meet Effluent Limits (BOD, TSS, PHOS, Ammonia, pH) |
| | City/County: | Alexandria, Virginia |
| | Receiving Water: | Hunting Creek |
| | River Basin: | Potomac & Shenandoah River Basin |
| | Dates of Noncompliance: | January through May and August through December 2001 and January through December 2002 |
| | Requirements Contained in: | Virginia Court Order |
| | DEQ Region: | Northern Virginia Regional Office |
| 2. | Permittee: | Omega Protein Inc. WWTP |
| | Type of Noncompliance: | Failure to Meet Effluent Limits (BOD, Ammonia, Cyanide) |
| | City/County: | Reedville, Virginia |
| | Receiving Water: | Cockrell Creek |
| | River Basin: | Chesapeake Bay |
| | Dates of Noncompliance: | May through December, 2002 |
| | Requirements Contained in: | VPDES Permit |
| | DEQ Region: | Piedmont Regional Office |
| 3. | Permittee: | Perdue Farms, Inc. WWTP |

Type of Noncompliance:	Failure to Meet Effluent Limits (Ammonia, TSS, Whole Effluent Toxicity)
City/County:	Accomac, Virginia
Receiving Water:	Parker Creek/Metomkin Bay
River Basin:	Chesapeake Bay
Dates of Noncompliance:	February 2002, June through October, 2002 and December 2002
Requirements Contained in:	VPDES Permit
DEQ Region:	Tidewater Regional Office
4. Permittee:	U.S. Marine Corps, Quantico STP
Type of Noncompliance:	Failure to Meet Effluent Limits (Ammonia, PHOS, CBOD, DO, Cl2), Compliance Schedule Violations (submission of water quality sampling data, submission of application for reissuance)
City/County:	Prince William County
Receiving Water:	Quantico Bight
River Basin:	Potomac & Shenandoah River
Dates of Noncompliance:	February through November 2002
Requirements Contained in:	VPDES Permit
DEQ Region:	Northern Virginia Regional Office

Ms. G. U. Webb, Doyle Mobile Home Park Sewage Lagoon, Henry County - A sewage lagoon discharging approximately 5,000 gallons per day serves about forty homes in the park. In October 2001, the Board issued Ms. Webb a Consent Order requiring her to connect to public sewer, install an in-ground treatment system, or obtain a Permit by March 1, 2004. The Order also requires Ms. Webb to notify DEQ of her choice of one of these methods by October 31, 2002. The Order includes interim effluent limits. The facility has been meeting those limits. Because Ms. Webb's choice between proceeding with construction of a septic system and waiting for the availability of public sewer depends upon the outcome of the County's planning process for extension of public sewer, it is appropriate to allow Ms. Webb six additional months before she must choose a compliance option. The new deadline would be May 1, 2003. Civil Charge - none.

Barbara Camp, Colonial Beach - On January 30, 1996, a petroleum release occurred from three USTs which were in the process of being removed from the facility. The facility was purchased from a former oil company and is presently leased to a used car dealership. DEQ issued a letter on February 1, 1996, asking for an initial abatement measures report for the release. DEQ received a letter from the Camps on July 2, 1996, which stated that they had removed USTs from the property and that they did not witness a release during the tank pull. On July 25, 1996, the Department issued a NOV to the Camps for failure to undertake appropriate initial abatement measures, a violation of 9 VAC 25-580-250, and failure to provide a complete site characterization report, a violation of 9 VAC 25-580-260. On January 8, 1997, Department soil samples confirmed high levels of petroleum were present adjacent to the former gasoline dispensing islands. On January 28, 1997, the Department issued another NOV to Barbara Camp for failure to undertake appropriate initial abatement measures and failure to provide a site characterization report. Department personnel met with Barbara Camp on July 21, 1997, and corresponded between February 17, 1999, and May 21, 2002. On August 6, 2002, the Department again met with Barbara Camp to discuss the corrective actions necessary to comply with the Underground Storage Tank Regulations. The proposed Order requires Barbara Camp to submit a site characterization report and undertake abatement measures. Civil Charge - \$6,300.

Honeywell International Inc., Chesterfield - The Chesterfield, Honeywell International Inc., facility formerly known as AlliedSignal, Inc., was issued a VWPP Permit (the Permit) in January 2000 to hydraulically maintenance dredge an existing intake channel located in the James River. The Permit allows dredging of no more than 3,000 cubic yards of material to a depth of -15 feet at mean sea level from the existing intake channel. Honeywell contracted dredging activities which began in the James River in August 2001. After the first dredging cycle was completed, a post-survey commissioned by Honeywell determined that the dredging had not removed all of the material allowed by the Permit. In October 2001, Honeywell contacted DEQ staff to confirm that it was permissible to re-dredge in November 2001 in order to reach the depth the Permit allowed. DEQ staff agreed to the re-dredging, provided the Permit limits and conditions were not exceeded. DEQ staff further reminded Honeywell to submit the past due water quality monitoring report from the August dredging event as required by the Permit and to submit

the post-dredge survey report. Honeywell asked if they could submit the reports from the two dredging events within the deadlines for the second dredging cycle. DEQ agreed with this request. In March 2002, a review of DEQ files determined that Honeywell had not submitted the reports required by the Permit as agreed. DEQ contacted Honeywell, and the overdue reports were provided in April 2002. Staff review of the reports revealed that the authorized -15 feet of dredge depth had been exceeded by 1 to 3 feet; and that the TSS concentration had been exceeded for the return flow during both the August and November 2001 dredging events. In addition to exceeding the TSS concentration, Honeywell violated the Permit by failing to cease dredging immediately and notifying DEQ of the TSS exceedences as the Permit requires. A Notice of Violation (NOV) was issued to Honeywell in June 2002, citing the Permit violations of unauthorized impacts to state waters by exceeding the permitted depth; failure to cease work immediately and notifying DEQ of exceeding the 30 mg/l of TSS of the dredge return flow; failure to submit the DO, TBT, TSS and metals sampling reports on time; and failure to submit the post-dredging survey report on time. Civil charge - \$12,000.00.

Harbour East Village, Chesterfield County - This facility is the subject of VPDES Permit No. VA0028622, which allows Harbour East to discharge treated wastewater into the James River in strict compliance with terms, limitations and requirements outlined in the permit. On October 24, 2001, Department staff found deficiencies during an inspection of the Harbour East STP. On January 15, 2002, Department staff conducted a follow up inspection of the STP. The facility's condition was unsatisfactory and staff made several compliance recommendations. On January 28, 2002, Harbour East Village was issued an NOV for improperly completed discharge monitoring reports (DMRs), failure to submit three quarterly progress reports on chlorine compliance, failure to submit DMRs, and effluent violations of BOD, chlorine, and ammonia. On April 10, 2002, Harbour East Village was issued an NOV for failing to submit January and February 2002 DMRs, failure to respond to compliance recommendations after two inspections, failure to report an intentional bypass, and failure to submit a quarterly progress report on chlorine compliance. The proposed Order requires Harbour East Village to complete a diagnostic evaluation of the treatment plant and submit a corrective action plan detailing either operation and maintenance procedures to be implemented or construction plans for an upgrade. Civil charge - the Order originally contained a penalty of \$5,500 which was subsequently reduced to \$1,000 as a result of the inability to pay process.

Omega Protein Incorporated, Reedville - Omega Protein has reported effluent violations of cyanide, ammonia, and BOD on DMRs for the June through December 2002 monitoring periods. In addition Omega failed to report total phosphorous and total nitrogen on the DMR for May 2002. Omega was also unable to meet cyanide limits and the source of cyanide exceedances are unknown. There is data that indicates there is a background cyanide issue in Cockrell's Creek. During an inspection in October 2002, DEQ noticed there was seepage around the facility's lagoon berm. Based on the Department's compliance recommendations, Omega has begun repairing the lagoon by installing a clay liner. In February 2003, during a review of the facility's toxicity results, the Department discovered that toxicity tests at outfall 006 are not in compliance with the Part I C.1.b.(1) because they did not meet proper holding times and they used the wrong organism. This made 4 out of 6 tests invalid. The new proposed permit increases the frequency of analysis from yearly to quarterly. The proposed Order requires Omega Protein to conduct studies to determine the cyanide source, and to take the appropriate actions to eliminate the cyanide source and to repair the leaking lagoon. Civil charge: \$11,000.

Royster-Clark /Petersburg AgriTerminal, Prince George - Royster-Clark owns and operates a fertilizer storage and transportation facility known as Petersburg AgriTerminal in Prince George, Virginia. On April 5, 2002, DEQ received notification that Royster-Clark was discharging stormwater without a permit that had collected inside the bermed area of their tank farm. On April 9, 2002, DEQ personnel visited the site and discovered evidence of a discharge with environmental impact. On April 30, 2002, DEQ conducted a macroinvertebrate assessment which confirmed impacts to the aquatic community in the receiving stream. The proposed Order requires Royster-Clark to apply for a permit. Civil charge: \$15,400

Town of Middletown, Frederick County - The Permit, issued on September 30, 1996, contained a four year schedule of compliance to meet final effluent limitations for ammonia. The Permit required the Town to meet final ammonia effluent limitations by October 1, 2000. The Town demonstrated, through its ammonia sampling during this schedule, that the Facility apparently could meet the final ammonia limits without upgrading the plant. During the period from December 1996 through December 2000, DEQ staff conducted a number of Laboratory Inspections

at Middletown's Facility which repeatedly found deficiencies with the performance of the ammonia test procedures. In 1998, DEQ staff from the Office of Operator Assistance conducted an on-site training and assistance program at the Facility to address laboratory testing methods used to monitor the plant's effluent, including ammonia. The operators satisfactorily completed the training program. In August 2001, DEQ staff conducted unannounced inspections of the Facility and noted deficiencies in the performance of the ammonia test procedure. DEQ staff provided the Facility's operator(s) with assistance to ensure that ammonia tests were properly performed. The Town took corrective action to address the deficiencies with the ammonia testing procedure based on this operator assistance.

The Permit was reissued effective October 1, 2001, with a schedule of compliance for TSS and ammonia because the monitoring results submitted by the Town appeared to show compliance with the earlier Permit. The effluent limitations contained in this permit are more stringent than those contained in the 1996 Permit. In October 2001 the Facility began to experience difficulty complying with the Permit's effluent limitations for ammonia. The Facility has experienced chronic effluent limitation violations for ammonia since that time. The Order requires the Town of Middletown to upgrade the plant to meet final effluent limitations. The Order also requires Middletown to contract out its laboratory testing of ammonia. Civil charge: \$5,530.

AquaSource Utility, Inc., Land Or' Company Inc. STP., Caroline County - The STP has a design flow of 100,000 gallons per day with average influent flows of 60,000 gallons per day. AquaSource purchased the STP on October 21, 1999. The STP was not designed to treat TKN and ammonia, and at the time AquaSource took ownership of the STP, the Permit included a four-year schedule for achieving compliance with those parameters. The schedule required that the STP achieve compliance with final Permit limits for TKN and ammonia by December 2000. Limits for these parameters are seasonal with TKN in effect from March through October and ammonia in effect from November through February. Pursuant to the Permit's compliance schedule, the STP's former owners monitored the STP's effluent to evaluate removal efficiencies for TKN and ammonia through July 1999 but chose not to submit a plan and schedule to DEQ for upgrading the facility. After analyzing the existing TKN and ammonia data, AquaSource notified DEQ in a letter dated March 27, 2000, that the evaluations of plant performance indicated that the STP could achieve compliance with final Permit effluent limits for those parameters through changes in operation at the facility, including chemical adjustments and increased aeration. Although AquaSource implemented the proposed operational changes, those improvements were not sufficient to ensure consistent compliance with final Permit effluent limits for TKN and ammonia. As a consequence, the STP exceeded Permit effluent limits for TKN in May 2001 and March through July 2002. In a meeting on December 16, 2002, representatives of AquaSource indicated that it would enhance the STP's aeration system in order to ensure consistent compliance with TKN and ammonia Permit effluent limits. Also at the December meeting, AquaSource agreed to provide NVRO staff with a plan and schedule for the proposed upgrade by January 15, 2003. Aqua Source submitted the plan and schedule as agreed. In addition, AquaSource has implemented operational changes at the STP that have resulted in the STP's compliance with Permit limits since August 2002. The Order requires that AquaSource complete construction of the STP's upgrade including improvements to the STP's aeration system by June 1, 2003. Civil charge: \$ 1,820.

Reissuance of VPDES Permit VA0080527 - South Wales Utility STP, Culpeper County - The permit was originally issued in 1992 and was reissued in 1997. The proposed plant has a maximum design flow of 856,800 gallons per day and will discharge to the Rappahannock River. The proposed plant will replace an existing 70,000 gallons per day plant located at the South Wales Golf Course. The existing plant currently handles flow from the golf course clubhouse and from residences across Route 229 in the existing South Wales development, located in Jeffersonton, Culpeper County. The proposed plant will replace the existing plant and will also serve a proposed residential development around the golf course.

Town of Cape Charles - 9 VAC 25-580-60(1) requires that by December, 1998, all existing underground storage tanks ("USTs") must either be upgraded to comply with new performance standards or be closed out in accordance with the Regulations. On May 16, 2000, DEQ staff inspected five USTs servicing emergency generators in Cape Charles. The USTs were not in compliance with the following requirements of the UST: Technical Standards and Corrective Action Requirements (9 VAC 25-580-10 et seq.): Spill Prevention; Overflow Prevention; and, Cathodic Protection.

A compliance assistance letter was sent on March 1, 2000 to Cape Charles notifying them that their tanks were noncompliant and needed to be upgraded or closed. On May 25, 2000, DEQ sent a Warning Letter to the Town. On June 9, 2000, DEQ received a response from the Town Manager with plans to remove the tanks. The Town subsequently signed a Letter of Agreement that required the work to be completed by September 15, 2001. In an August 24, 2001, letter, the Town Manager requested an extension to the schedule. An extension until November 1, 2001 was granted. The Town failed to complete the work and did not submit a letter of explanation. On November 29, 2001, NOV No. 01-11-TRO-007 was issued to the Town for failing to comply with the Letter of Agreement. The proposed order requires the Town to complete closure of the USTs by May, 2003 and submit all required documentation by July, 2003. Civil charge: The proposed civil charge is \$5,218. \$218 of the civil charge is due within 30 days, the remaining \$5,000 is to be offset by the completion of a SEP.

Baymark Construction Corporation, Cape Charles - On August 22, 2000 DEQ issued Virginia Water Protection Permit #93-0149 to Baymark Construction Corporation for a dredging project associated with the construction of the Kings Creek Marina. Part I.F.1 of the Permit requires that DEQ be notified in writing 10 days in advance of the start of the dredging and 10 days after completion of the work. Part I.F.3 of the Permit specifies that the maximum depth of the dredging is -8.0 feet mean low water. Part I.F.18 of the Permit requires that a post-dredge survey be submitted within 30 days of the completion of each dredging event. Baymark finished dredging sometime in December, 2001. DEQ was informed of the dredging completion upon receipt of the post dredge survey on April 17, 2002. The post-dredge survey indicates that the maximum dredging depth was exceeded in the majority of the basin by approximately 1 foot. The proposed order will require the owner to comply with their permit and pay a civil charge of \$5,000.

Ecolochem, Inc., Norfolk - Ecolochem, Inc. (Ecolochem) is a manufacturing operation consisting of the regeneration of ion exchange resin used in the process of demineralization of water supplies for industrial applications. The permit establishes a limit of 1.0 TU-A for whole effluent toxicity (WET). In December 2001 and February 2002, Ecolochem reported 1.44 TU-A and 1.5 TU-A, respectively. Ecolochem reports that both discharges were due to sensor relay failures. On June 12, 2002, TRO issued Ecolochem a notice of violation for exceeding the WET permit limits. On each occasion, Ecolochem, Inc. implemented corrective actions which included: (1) recalibrating the sensor in December 2001; (2) purchasing and utilizing a new calibration standard of 15,000 mg/L instead of the 30,000 mg/L calibration standard; (3) purchased and installed a new relay computer in February 2002; (4) increased the frequency of checking the calibration standard to once a week; (5) monitoring TDS continuously; and (6) acquiring a new improved sensor, which is less susceptible to fouling by suspended solids. Civil charge: \$1,000 for exceeding their WET permit limit in December 2001 and February 2002.

Yorktown Naval Weapons Station - Sometime before May 6, 2002, a sewer line at the Yorktown Naval Weapons Station became blocked and approximately 30,000 gallons of raw sewage overflowed from a manhole and drained into a down gradient storm drain fifteen feet away. The storm drain carried the sewage into Skiffes Creek and the Skiffes Creek reservoir, a drinking water reservoir serving the City of Newport News. The overflow was reported on a Monday morning but was believed to have occurred over the weekend. The overflow was properly reported to DEQ but Newport News Waterworks was not properly notified of the incident. A second overflow occurred from the same manhole on June 3, 2002 and approximately 500 gallons of sewage were released. The cause was another line blockage. The proposed order requires the Navy to repair the line where the discharge occurred, submit a plan for maintaining grease traps, submit a plan for cleaning sewer lines, inspect sewer lines by closed circuit television, and submit a plan for correcting any problems identified in the inspected sewer lines. Civil charge: Federal facilities are not subject to civil charges.

Modification of VPDES Permit No. VA0004804, for Newport News Shipbuilding and Drydock Company - The purpose of this agenda item is to determine the appropriate action regarding the authorization of the subjects modified permit. The applicant had applied for a modification of their current Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0004804 to include new language for TBT limits. This language was developed by a group consisting of DEQ, the Chesapeake Bay Foundation and members of the shipbuilding community. The agreement was signed by

all groups by July 16, 2002. Permittees began submitting applications in June, 2002 for VPDES permit modifications. The permit application was submitted on June 26, 2002. We received concurrence on the draft permit from EPA, the Health Department and the owner in September 2002. The public notice was sent to the Daily Press newspaper and the first notice was September 15, 2002. Public comments were received from two people, Peter deFur and Patricia Jackson on October 15, 2002. After not being able to reach agreement about the permit, a public hearing was scheduled. There have been six permits modified with this same language which have received no public comments. The public hearing was held on January 7, 2003.

Issuance of VWP Permit 00-1688, Tri-City Properties, L.L.C. - At the March 25, 2003 meeting of the State Water Control Board, the Board will be asked to consider the issuance of Virginia Water Protection (VWP) Permit 00-1688 to Tri-City Properties, L.L.C. This matter is before the Board due to a public hearing that was held regarding issuance of this proposed permit. On September 14, 2000, Tri-City Properties, L.L.C. submitted a joint permit application to the Virginia Water Protection Permit (VWPP) Program to impact wetlands on their property located east of Centerville Turnpike and north of Elbow Road in Chesapeake. This property is bordered to the east by undeveloped land, to the south by residential/commercial development and Elbow Road, to the west by developed and undeveloped land and Centerville Turnpike, to the north by developed and undeveloped land, and to the northeast by a golf course and Stumpy Lake, which is located in the headwaters of the North Landing River. According to the DEQ-confirmed wetland delineation, there are approximately 253.5 acres of nontidal forested wetlands on the 428.2-acre property.

Consideration of the Cowpasture River for an Exceptional Waters Nomination. - The purpose of this memo is to update the Board on staff efforts to work with the Cowpasture River Preservation Association (CRPA) to explore the Tier III eligibility and possible boundary descriptions for an exceptional waters nomination for the Cowpasture River. Staff was directed by the Board at their January 6, 2003 meeting in Richmond to report back to the Board at their next meeting on the feasibility of such a designation.

Amendment to the UST Technical Standards and Corrective Action Requirements - The Underground Storage Tanks: Technical Standards and Corrective Action Requirements regulation (UST Technical Regulation) contains standards for UST system design, installation, operation, release detection, and closure. The regulation also contains requirements for reporting releases, investigating suspected releases, and taking corrective action following a release. The Code of Virginia and the Federal UST Regulation have been amended since the subject regulation became effective. The primary goal of amending the subject regulation is to bring this regulation into agreement with the Code of Virginia and the Federal UST Regulation. The only major amendment not related to changes in Virginia Law and the Federal UST regulation deals with deletion of the requirement for tank owners/operators to obtain a Corrective Action Permit from the Department prior to initiating corrective actions. Experience gained by the DEQ in the oversight of the UST Technical Regulation indicates that the Department does not need to issue a Corrective Action Permit to tank owners/operators in order for those persons to conduct corrective actions. Also, the Federal UST regulation does not require tank owners/operators to obtain a Corrective Action Permit prior to starting corrective actions. Staff, therefore, recommend that the section of the regulation requiring a Corrective Action Permit (Section 290) be deleted.

Facility and Aboveground Storage Tank Regulation Amendments - The existing regulation is being amended to improve clarity and make the requirements more easily understandable by the individuals and entities affected and to bring applicable portions of the regulation into conformity with related laws and regulations. The existing regulation: (i) establishes requirements for registration of facilities and individual petroleum Aboveground Storage Tanks located within the Commonwealth; (ii) develops standards and procedures to prevent pollution from new and existing ASTs; and (iii) provides requirements for the development of facility oil discharge contingency plans for facilities with an aggregate capacity of 25,000 gallons or greater of oil.

Draft Regulation for Virginia Financial Responsibility Requirements for Mitigation Associated with Tidal Dredging Projects (9 VAC 25-770 *et seq.*) - At the March 25, 2003 Board meeting, the staff will ask for Board authorization to take the above referenced Draft Regulation to public comment. At its October 3, 2002 meeting, the Board voted to adopt the draft regulation (9 VAC 25-770-10 *et seq.*), as presented by the staff, as an emergency regulation to become effective on or before December 5, 2002. This regulation was proposed as an emergency regulation to comply with the requirements of section 62.1-44.15 (5c) of the Code of Virginia, as mandated by the 2002 General Assembly. Several changes to the Emergency Regulation were made by DEQ staff in response to further internal review. Unnecessary definitions were removed, an exemption for state and federal government projects was added, and compliance dates were modified to allow DEQ staff more time to review the financial assurance documents prior to project onset. In addition, the means to transfer financial assurance with transfer of the permit and the mechanism by which purchase of mitigation bank credits or in lieu of fee contributions satisfy the regulation were clarified.

Brownfield Remediation Loan Program - The staff will be recommending Board action on one recently received application for the Brownfield Remediation Loan Program. Legislation adopted during the 2001 session of the Virginia General Assembly allowed for the expansion of funding activities of the Virginia Wastewater Revolving Loan Fund for the remediation of Brownfield sites involving contaminated water resources in the Commonwealth. In March of 2002, the Board approved guidelines for the administration of this program, agreed to a 10% goal oriented set-aside, making approximately \$ 3.5 million available for FY 2003, and directed the staff to proceed with program implementation in FY 2003. By letter dated December 18, 2002, EPA conditionally approved the guidelines for this loan initiative. On January 3, 2003, DEQ staff mailed out the second Brownfield solicitation notice with an application deadline of February 28, 2003. The request was mailed out to all the political jurisdictions in the Commonwealth, interested consulting firms, individuals, and businesses suggested by the agency's Waste Division. As a result, we have received numerous inquiries and one application. The application is from the Town of Rocky Mount in the amount of \$49,270. We are in the process of evaluating the application and arranging for a meeting with the Town to discuss the project.

2003 DEQ Legislation

WATER

HB 1505 Emergency water supply permits. Authorizes the State Water Control Board to issue an emergency Virginia Water Protection Permit to meet public drinking water supply needs during drought or low-flow conditions. The amount of water that could be withdrawn under the permit is limited to the amount necessary to protect public health and safety. The emergency permit would be valid until the Board either denied or approved a regular VWPP or for 1 year, whichever occurs sooner. The fee charged by the Board for the emergency permit would be 50 percent of the amount charged for a comparable water project seeking a VWPP. *Patron:* Bryant

HB 1953 Creation of the Low Impact Development Assessment Task Force. Requires the Director of the Department of Environmental Quality to form a Low Impact Development Assessment Task Force. The task force is to (i) develop a certification process for low impact development techniques in achieving quantifiable pollution prevention or abatement results, (ii) develop such other guidance for local governments and the general public as necessary to promote a more complete understanding of the most effective use of low impact development techniques, (iii) recommend changes to existing statutes and regulations to facilitate the use of low impact development techniques, and (iv) develop a model ordinance for use by local governments. For purposes of this section, "low impact development" means a site-specific system of design and development techniques that can serve as an effective, low-cost alternative to existing stormwater and water quality control methods and that will reduce the creation of storm runoff and pollution and potentially reduce the need to treat or mitigate water pollution. The Taskforce shall continue in existence until it has submitted its final report. *Patron:* Albo

HB 2156 Water supply fund. Authorizes the Virginia Board of Health to enter into an agreement with the State Water Control Board to manage certain aspects of the fund, such as reviewing of financial assistance applications and project bid documents, monitoring projects, and ensuring compliance with environmental review. *Patron:* Phillips

HB 2236 Water quality reports. Consolidates DCR's report on the impacts of nonpoint source pollution on water quality in DEQ's water quality report that is submitted to the U.S. Environmental Protection Agency. *Patron:* Pollard

HB 2602 Construction and operation of treatment works. Gives the State Water Control Board (SWCB) and the Department of Environmental Quality sole authority to regulate the construction and operation of sewage treatment plants, including the review and approval of the plans and specifications for such facilities and transfers the SCAT regulation and program to DEQ. This means that the SWCB will issue the certificates to construct and operate the facility. Currently, this is the joint responsibility of the Board of Health and the SWCB. *Patrons:* Bryant

SB 896 Confined animal feeding operations. Authorizes the State Water Control Board to promulgate regulations requiring VPDES permits for confined animal feeding operation to the extent necessary to comply with § 402 of the federal Clean Water Act. Larger confined animal feeding operations will be covered under Virginia Pollutant Discharge Elimination System permits as opposed to a General Virginia Pollutant Abatement permits. *Patron:* Watkins

SB 1221 Water supply planning. Requires the State Water Control Board, in consultation with the State Health Commissioner, local governments, public service authorities, and other interested parties, to establish a comprehensive water supply planning process for the development of local, regional and state water supply plans. The planning process should (i) ensure that adequate and safe drinking water is available, (ii) encourage and protect all beneficial uses, and (iii) encourage, promote and develop incentives for alternative water sources. The Board is to prepare a preliminary state water resources plan and proposed draft criteria for development of the local and regional plans by December 1, 2003. The preliminary plan, which will include information from existing local and regional water supply plans, is to be submitted to the Governor and the legislative committees with jurisdiction over the subject matter and the State Water Commission. *Patrons:* Williams

Budget Item 386#3c Citizen Water Quality Monitoring Restores \$106,000 in funding for the citizen water quality monitoring program. Funds are to come from royalties that may be paid to the Marine Resources Commission.
Budget Item 385#1c Elizabeth River Project Restores \$225,000 in funding for the Elizabeth River Project. Funds are to come from dredging royalties that may be paid to the Marine Resources Commission.

SJ 381 Study; desalinization. Requests the Virginia Water Resources Research Center at the Virginia Polytechnic Institute and State University to study desalinization as part of a strategy to meet Virginia's drinking water needs.

The study will examine the costs and benefits of this technology and whether it would be cost-effective for those localities located near the ocean or a brackish water source to develop this technology. *Patrons:* Hawkins

SJ 424 / HR38 Nitrogen reduction in the Chesapeake Bay. Urges the Congress of the United States to adopt legislation in support of funding for nitrogen reduction technology in the 108th Congress. The Commonwealth is a signatory to the Chesapeake 2000 Agreement, in which Virginia pledges to significantly reduce nitrogen to levels sufficient to remove the Chesapeake Bay from the Environmental Protection Agency's impaired or "dirty waters" list by 2010. This resolution is identical to HR 38. *Patrons:* Whipple / Pollard

WASTE

HB 1398 Enhanced enforcement of litter laws. Provides that any person who unlawfully dumps trash, garbage or litter on public or private property may have his driving privileges suspended and may be ordered to perform up to 100 hours of community service. *Patrons:* Lingamfelter

HB 1532 Landfill siting. Allows Halifax County to site a landfill closer than 5-miles upgradient from a water source, if the Director of the Department of Environmental Quality determined that such distance would not be detrimental to human health and the environment. Currently, only Mecklenburg has an exemption that allows it to construct a landfill closer than the statewide 5-mile upgradient separation requirement. *Patron:* Hogan

SB 965 Waste tire piles and tire tax. Strengthens the Department of Environmental Quality's (DEQ) ability to clean up the 339 remaining tire piles throughout the state. This is done by strengthening and clarifying state and local enforcement authority as well as the ability of neighboring property owners to recover damages from a tire fire. The legislation temporarily increases the fee collected from the retail sale of tires from \$0.50 to \$1.00 for three years. The proceeds will be used to remove and recycling tires from illegal tire piles. The legislation also authorizes the department to enter and remove tire piles if a landowner refuses an order to do so and to attach a lien against the property to recover the costs of removing the tire pile. *Patron:* Watkins

SB 1137 Transporting wastes on state waters. Eliminates the stacking limitation for containers on barges and the prohibition on transporting waste on the Rappahannock, James, and York Rivers (in accordance with the federal court rulings). This bill broadens the Board's authority to establish a waste barging fee to fund not only administration and enforcement costs, but to also fund activities for abating pollution caused by barging of waste, for improving water quality, or for other waste related purposes. *Patron:* Stolle

AIR

Budget Item 383#1c On-road Testing of Vehicle Emissions Inspections This amendment requires DEQ to implement a remote vehicle emission testing program in current ambient air quality nonattainment areas and develop a plan for implementing a similar program in areas that will likely become nonattainment areas in the next year. The goal of the program is to more efficiently identify those vehicles violating emission standards and causing the most pollution while phasing out (over the long-term) the requirement for biennial testing of all other vehicles operating in compliance with standards in the current nonattainment areas of Northern Virginia. The program is further proposed to avoid imposing a requirement to test all vehicles in those areas that are likely to be declared nonattainment in the future. The remote on-road testing program can be accomplished utilizing the latest technology and equipment while vehicles are in their normal operation and without any inconvenience or requirement for the driver to stop for the test. *patron:* Del. May

POLLUTION PREVENTION & RECYCLING

HB 2376 Cathode ray tube and electronics waste recycling program. Requires the Virginia Waste Management Board to adopt regulations to encourage cathode ray tube and electronics recycling. The bill also authorizes localities to prohibit the disposal of cathode ray tubes in any privately operated landfill within its jurisdiction, so long as the locality has implemented a recycling program that is capable of handling all cathode ray tubes generated within the jurisdiction. *Patron:* Moran

HB 2726 Property tax; certified pollution control equipment and facilities. Adds any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, or fuel to the

definition of certified pollution control equipment and facilities for property tax classification purposes. *Patron:* Ware

HB 2789 Trichloroethylene prohibited; penalty. Prohibits the sale of any playground equipment treated with or containing TCE as of January 1, 2004. Violations are Class 3 misdemeanors. *Patron:* Amundson

HR 42 Reduction in Medical Waste Encourages all hospitals in Virginia to adopt the Medical Equipment Recovery of Clean Inventory (MERCi) program or other similar program to eliminate the disposal of usable medical supplies. *Patrons:* Van Yahres

Budget Item 386#1c Litter Control and Recycling Grants Restores \$1.3 million in funds for litter control and recycling grants for local governments. The funds will come from the Virginia Environmental Emergency Response Fund.

MULTI-MEDIA

HB 1671 Virginia Envirothon Program. Authorizes Soil and Water Conservation Districts to coordinate and implement the Virginia Envirothon natural resource conservation program for high school students. *Patron:* Orrock

SB 1051 Virginia Water Facilities Revolving Fund. Allows the State Water Control Board to make loans from the Virginia Water Facilities Revolving Fund to local governments or "holders" for purchasing or acquiring an interest in real property. The Board must consult with the Department of Conservation and Recreation to verify that the purchase protects or improves water quality and prevents the pollution of state waters and protects the natural or open-space values of the property or assures its availability for agricultural, forestal, recreational, or open-space use. *Patron:* Hanger

HB 1748 Virginia Water Facilities Revolving Fund; brownfields remediation. Allows the State Water Control Board to extend loans from the Virginia Water Facilities Revolving Fund to localities, public authorities, partnerships or corporations for brownfields remediation activities (rather than for just sites enrolled in the voluntary remediation program). A brownfield is real property for which expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. *Patrons:* Suit

SB 1275 Environmental Laboratory Certification Program. Authorizes the Director of the Division of Consolidated Labs to provide variances to environmental labs if (i) the proposed variance will meet the goals and purposes of the provisions of the regulations being developed by DCLS and (ii) the variance does not conflict with federal or state law or regulations. The provisions of this bill will become effective on July 1, 2004. *Patrons:* Hawkins